

ORDINANCE No. 2008-07-143

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION C OF ORDINANCE NO. 2005-27-65 RELATING TO REGULATIONS CONCERNING MOTORIZED SCOOTERS, GO-PEDS, ALL TERRAIN VEHICLES AND DIRT BIKES WITHIN THE CITY OF MIAMI GARDENS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 22, 2005, the City Council adopted Ordinance No. 2005-27-65 which made it illegal for persons to drive certain vehicles upon the roadways and public areas of the City, and

WHEREAS, in light of the fact that the City is in the process of adopting its own towing ordinance, and in light of a decision issued by the 3rd DCA in the case of *City of Miami v. Wellman*, it is prudent for the City to amend its penalty provisions,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. AMENDMENT: Section C of Ordinance No. 2005-27-65 is amended as follows:

Section C. Penalties.

1. It shall be unlawful for any person to violate any regulation contained herein, and it shall be unlawful for the parent of any child or guardian of any ward to authorize or knowingly permit any such child or ward to violate any regulation established hereby.

2. Every person ~~not a juvenile, as such, is defined by the laws of the state,~~ found guilty of a violation of this Ordinance shall be punished by a fine of not more than ~~\$100~~ \$500.00 per violation ~~and/or by the impounding~~

~~of such person's motorized scooter, all terrain vehicle, dirt bike or go ped for a period not to exceed ninety (90) days. In addition, any person who fails to comply with this Ordinance, upon conviction shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00, or by imprisonment not to exceed sixty (60) days in the County jail or both, at the discretion of the Court.~~ The penalties provided for in this Ordinance are in addition to any other penalties permitted by general law.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

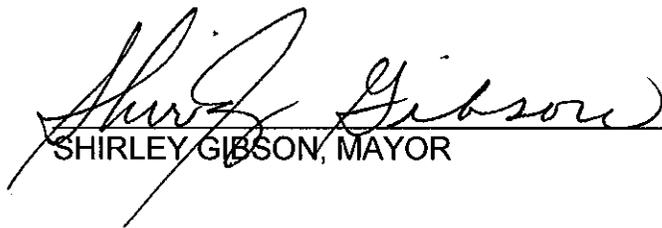
SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 13TH DAY OF FEBRUARY, 2008.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 27TH DAY OF February, 2008.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

MOVED BY: Vice Mayor Watson
SECONDED BY: Councilman Campbell

VOTE: 7-0

Mayor Shirley Gibson	<u> x </u> (Yes)	<u> </u> (No)
Vice Mayor Barbara Watson	<u> x </u> (Yes)	<u> </u> (No)
Councilman Melvin L. Bratton	<u> x </u> (Yes)	<u> </u> (No)
Councilman Oscar Braynon, II	<u> x </u> (Yes)	<u> </u> (No)
Councilman Aaron Campbell	<u> x </u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> x </u> (Yes)	<u> </u> (No)
Councilman André Williams	<u> x </u> (Yes)	<u> </u> (No)

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City of Miami Gardens

1515 NW 167th Street, Bldg. 5, Ste
200
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice Mayor Barbara Watson
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman Oscar Braynon II
Councilman André Williams

Agenda Cover Page

Date: February 27, 2008

Fiscal Impact: No Yes

(If yes, explain in Staff Summary)

Funding Source:

Contract/P.O. Requirement: Yes No

Sponsor Name/Department: Law

Public hearing

Ordinance

1st Reading

Advertising requirement:

RFP/RFQ/Bid # _____

Quasi-Judicial

Resolution

2nd Reading

Yes No

Title

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION C OF ORDINANCE NO. 2005-27-65 RELATING TO REGULATIONS CONCERNING MOTORIZED SCOOTERS, GO-PEDS, ALL TERRAIN VEHICLES AND DIRT BIKES WITHIN THE CITY OF MIAMI GARDENS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

Staff Summary

On June 22, 2005, the City Council adopted Ordinance No. 2005-27-65, which outlawed the driving of certain vehicles, including ATV's and motor scooters, upon the roadways and public areas of the City. In light of a recent decision issued by the 3rd DCA in the case of *City of Miami v. Wellman*, it is not clear that the City is permitted to impound vehicles without providing for certain notification requirements to owners.

Moreover, in light of the City's proposed towing ordinance, in the event a vehicle cannot be driven legally upon the City's roadways, the Police Department will be permitted to tow these vehicles to a tow yard. This way, the City will still be able to ensure that these vehicles are taken off of the City's roadways.

It is being requested that the fine amounts in Ordinance No. 2005-27-65 be increased to \$500.00. The ordinance is also being clarified to provide that violations may be prosecuted as misdemeanors in order to help deter individuals from violating the Ordinance.

RECOMMENDATION: That the City Council adopts an Ordinance amending Ordinance No. 2005-27-65.

**I-1) ORDINANCE
2ND READING
Regulations Concerning
All Terrain Vehicles**